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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK  
3 -----x

4 UNITED STATES OF AMERICA,

5 v.

S4 15 Cr. 867 RMB

6 MEHMET HAKAN ATILLA,

7 Defendant.  
-----x

8

9 January 3, 2018  
10 10:15 a.m.

11

12 Before:

13 HON. RICHARD M. BERMAN,

14 District Judge  
15 and a jury

16

17 APPEARANCES

18 JOON H. KIM,  
19 United States Attorney for the  
Southern District of New York  
20 MICHAEL D. LOCKARD,  
SIDHARDHA KAMARAJU,  
DAVID W. DENTON, JR.,  
21 DEAN C. SOVOLOS,  
Assistant United States Attorneys

I133ATI1

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2 (APPEARANCES Continued)

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HERRICK, FEINSTEIN LLP (NYC)  
Attorneys for defendant Atilla  
BY: VICTOR J. ROCCO, Esq.  
THOMAS ELLIOTT THORNHILL, Esq.  
- and -

FLEMING RUVOLDT, PLLC  
BY: CATHY ANN FLEMING, Esq.  
ROBERT J. FETTWEIS, Esq.  
- and -

LAW OFFICES OF JOSHUA L. DRATEL, P.C.  
BY: JOSHUA LEWIS DRATEL, Esq.

Of counsel

-and-

McDERMOTT WILL & EMERY  
BY: TODD HARRISON

Also Present:

JENNIFER McREYNOLDS, Special Agent FBI  
MICHAEL CHANG-FRIEDEN, Paralegal Specialist USAO  
MS. ASIYE KAY, Turkish Interpreter  
MS. SEYHAN SIRTALAN, Turkish Interpreter

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I133ATI1

1 (In open court; jury not present)

2 THE COURT: Happy New Year.

3 So we got a note from the jury I guess 10 minutes or  
4 so ago which says "Judge Berman, Happy New Year. (1) What  
5 happens if we have agreement on some but not all of the counts.  
6 And (2) could we have another copy of the verdict sheet.  
7 Thanks."

8 So two is easy. Two is yes. I think one is not so  
9 hard either.

10 Why don't I make copies of this for you and you can  
11 talk among yourselves and then meet and confer and see if you  
12 agree on what we should do. I have a thought myself but I'd  
13 rather hear from you first.

14 (Pause)

15 THE COURT: Have you all had an opportunity to talk?

16 MR. LOCKARD: Not between the two tables yet, your  
17 Honor.

18 THE COURT: Oh. Okay.

19 MR. HARRISON: We're still talking to the defendant,  
20 your Honor. If you can just give us a couple more moments,  
21 your Honor. Thanks.

22 THE COURT: Okay.

23 (Pause)

24 MR. KAMARAJU: I think we're waiting for their  
25 response, your Honor.

I133ATI1

1                   THE COURT: Okay.

2                   (Pause)

3                   MR. ROCCO: So, Judge, we conferred with the  
4 government. We haven't come to agreement. We think that the  
5 first question -- obviously, we agree, the answer to the second  
6 question is very simple. They get another copy of the verdict  
7 sheet.

8                   But we think the first question is drafted in a  
9 hypothetical. What we would propose is the Court say to the  
10 jury, respond to the note by saying if it comes to pass that  
11 you have arrived at a point where you agreed to some and not  
12 all counts, please let us know and we'll give you further  
13 instructions.

14                  The government does not agree with that, and I'm sure  
15 Mr. Lockard will tell you why.

16                  MR. LOCKARD: So, the government thinks that the Court  
17 can easily answer the first question by referring the jury to  
18 the charges previously given, the multiple counts charge in  
19 particular on pages 55 and 56 of the written jury instructions,  
20 and the unanimity charge on pages 63 to 64 of the jury  
21 instructions, which I think answers the question that's posed  
22 in a way that should be helpful to the jury in its  
23 deliberations.

24                  THE COURT: All right.

25                  MR. ROCCO: Just on that point, we think that the

I133ATI1

1 unanimity charge is fine. The multiple counts charge, though,  
2 I think in the context when your Honor gave the jury the  
3 instruction, I think it's correct as it stands. But in the  
4 context of this note, we're concerned it may appear to be  
5 coercive.

6 THE COURT: So, I thought, actually, I would do  
7 something far simpler than either of you was suggesting. Based  
8 on the note, it doesn't seem to be any kind of deadlock, so to  
9 speak. So I thought I would just say, if it is okay with you,  
10 my suggestion is that you spend some additional time  
11 deliberating together to see if you can reach agreement on all  
12 the counts. And then we'll enclose a copy of the verdict  
13 sheet.

14 MR. ROCCO: That's fine with us.

15 MR. LOCKARD: That's fine. We agree that the note  
16 certainly doesn't suggest deadlock.

17 THE COURT: Okay. I'm going to add "Happy New Year."  
18 We made copies for you. Why don't you take a final look. If  
19 it's okay with you, we'll send it into the jury.

20 MR. LOCKARD: No objections.

21 THE COURT: Okay. It's okay?

22 MR. ROCCO: One second, your Honor, please.

23 We like the Happy New Year, your Honor.

24 THE COURT: We're going to send it back in.

25 (Recess pending verdict)

I133ATI2

Verdict

1                             (In open court; jury not present. Time noted 2 p.m.)

2                             THE COURT: We have two notes. One is a ministerial  
3 one asking for lunch orders, which I'm just putting on the  
4 record. But the other is indicating that there is a verdict on  
5 all counts.

6                             So, my practice is Christine as the court deputy will  
7 bring out the jury and she'll do the polling of the jury. And  
8 we'll do that now.

9                             (Jury present; time noted 2:05 p.m.)

10                          THE COURT: Please be seated, everybody. We  
11 understand that the jury has reached a verdict. And there is a  
12 procedure that we follow that Christine will implement.

13                          THE DEPUTY CLERK: Madam Foreperson, if you can please  
14 stand.

15                          In the matter of the United States of America v.  
16 Mehmet Hakan Atilla, how do you, the jury, find as to the  
17 following questions:

18                          Bank fraud as charged in Count Three of the  
19 indictment.

20                          THE FOREPERSON: Guilty.

21                          THE DEPUTY CLERK: Money laundering as charged in  
22 Count Five of the indictment.

23                          THE FOREPERSON: Not guilty.

24                          THE DEPUTY CLERK: Conspiracy to defraud the United  
25 States as charged in Count One of the indictment.

I133ATI2

Verdict

1 THE FOREPERSON: Guilty.

2 THE DEPUTY CLERK: Conspiracy to violate IEEPA as  
3 charged in Count Two of the indictment.

4 THE FOREPERSON: Guilty.

5 THE DEPUTY CLERK: Conspiracy to commit bank fraud as  
6 charged in Count Four of the indictment.

7 THE FOREPERSON: Guilty.

8 THE DEPUTY CLERK: Conspiracy to commit money  
9 laundering as charged in Count Six of the indictment.

10 THE FOREPERSON: Guilty.

11 THE DEPUTY CLERK: You may be seated, please.

12 Ladies and gentlemen of the jury, please listen to  
13 your verdict as it stands recorded.

14 As to bank fraud charged in Count Three of the  
15 indictment: Guilty.

16 Money laundering as charged in Count Five of the  
17 indictment: Not guilty.

18 Conspiracy to defraud the United States as charged in  
19 Count One of the indictment: Guilty.

20 Conspiracy to violate IEEPA as charged in Count Two of  
21 the indictment: Guilty.

22 Conspiracy to commit bank fraud as charged in Count  
23 Four of the indictment: Guilty.

24 Conspiracy to commit money laundering as charged in  
25 Count Six of the indictment: Guilty.

I133ATI2

Verdict

1                   Juror Number 1, is that your verdict?

2                   JUROR NO. 1: Yes.

3                   THE DEPUTY CLERK: Juror Number 2, is that your  
4 verdict?

5                   JUROR NO. 2: Yes.

6                   THE DEPUTY CLERK: Juror Number 3, is that your  
7 verdict?

8                   JUROR NO. 3: Yes.

9                   THE DEPUTY CLERK: Juror Number 4, is that your  
10 verdict?

11                  JUROR NO. 4: Yes.

12                  THE DEPUTY CLERK: Juror Number 5, is that your  
13 verdict?

14                  JUROR NO. 5: Yes.

15                  THE DEPUTY CLERK: Juror Number 6, is that your  
16 verdict?

17                  JUROR NO. 6: Yes.

18                  THE DEPUTY CLERK: Juror Number 7, is that your  
19 verdict?

20                  JUROR NO. 7: Yes.

21                  THE DEPUTY CLERK: Juror Number 8, is that your  
22 verdict?

23                  JUROR NO. 8: Yes.

24                  THE DEPUTY CLERK: Juror Number 9, is that your  
25 verdict?

I133ATI2

Verdict

1 JUROR NO. 9: Yes.

2 THE DEPUTY CLERK: Juror Number 10, is that your  
3 verdict?

4 JUROR NO. 10: Yes.

5 THE DEPUTY CLERK: Juror Number 11, is that your  
6 verdict?

7 JUROR NO. 11: Yes.

8 THE DEPUTY CLERK: Juror Number 12, is that your  
9 verdict?

10 JUROR NO. 12: Yes.

11 THE DEPUTY CLERK: Your Honor, jurors polled; verdict  
12 is unanimous.

13 THE COURT: So, that concludes your jury service.  
14 It's been a pleasure to work with you. And a little unusual  
15 that we had this week break in between, but I never had any  
16 doubts that you would all be back first thing today.

17 So, I thank you for your service. The jury is  
18 excused. If you remain for just a minute or so in the jury  
19 room, I'd like to come back and thank you personally just for a  
20 minute or so. Thank you very much.

21 (Jury dismissed; time noted 2:08 p.m.)

22 THE COURT: I would ask everybody to remain here. We  
23 have some scheduling issues, as you are aware, to do. I'll  
24 just be a minute in the jury room. So if everybody would  
25 please be seated. Thank you.

I133ATI2

Verdict

1 (Pause)

2 THE COURT: We have a couple of things to talk about.  
3 One is a motion schedule. Remind me, what, if anything, is  
4 outstanding? Is that supplemental defense application?

5 MR. ROCCO: Essentially, Judge, we wrote the Court a  
6 letter last week.

7 THE COURT: Yes, that's what I'm talking about.

8 MR. ROCCO: Essentially we're going to reserve that  
9 for our post-trial Rule 29 motion. That's how we left it. The  
10 government was going to respond to the letter. I don't know if  
11 it is still going to respond to our submission.

12 THE COURT: What would you like as a date -- did I set  
13 that?

14 MR. ROCCO: No, you did not.

15 THE COURT: Okay. Post-trial Rule 29, how much time  
16 do you need for that?

17 MR. ROCCO: We have 14 days under the statute, Judge.  
18 Do you want to give us three weeks?

19 THE COURT: The 24th?

20 MR. ROCCO: That's fine. Judge, we still have our  
21 original Rule 29 motion.

22 THE COURT: I know that. I'll get to that. I will.  
23 That's fully briefed.

24 MR. ROCCO: Yes.

25 THE COURT: So, January -- I'm sorry. Did I just say

I133ATI2

Verdict

1 the 24th?

2 MR. ROCCO: Yes, sir.

3 THE COURT: Okay. What about the government response?

4 MR. LOCKARD: Your Honor, could we have three weeks to  
5 oppose?

6 THE COURT: Is that the 14th?

7 MR. LOCKARD: That sounds right.

8 THE COURT: What I will do now is direct that a  
9 presentence report be prepared by the probation department.  
10 And defense counsel, I suppose you do but I always ask if you  
11 wish to be present in connection with any interview of  
12 Mr. Atilla.

13 MR. ROCCO: We do, your Honor.

14 THE COURT: I'll direct that the presentence  
15 investigation report be made, but there be no interview of  
16 Mr. Atilla unless defense counsel is given the opportunity to  
17 be present.

18 And Mr. Atilla, I always say this at this point. I  
19 advise people that it is in their best interests to cooperate  
20 with the probation department who prepares this presentence  
21 report, since the report would be important in my decision as  
22 to what the appropriate sentence would be in this case. So I  
23 suggest that you tell them what they ask, of course consulting  
24 with your counsel, both the good things and perhaps the  
25 not-so-good things. Because if you don't disclose something

I133ATI2

Verdict

1 that they ask about, and it were to come to their attention,  
2 then they might say that you were not being truthful with them,  
3 and that of course would not be helpful to you.

4 Both the defendant and his counsel will have the right  
5 and the opportunity to examine the presentence report before  
6 the sentencing date and to file any objections to that report,  
7 so I urge you all to review it carefully. And Mr. Atilla, that  
8 you review it carefully with your counsel and discuss it with  
9 them before the sentencing date. If there are any mistakes in  
10 the report, please point them out to your lawyers so that they  
11 can point them out to me before sentencing so that I do not  
12 proceed on the basis of mistaken information.

13 So I was going to propose, unless you all have a  
14 different suggestion, April 11, 2018. That works for  
15 everybody?

16 MR. LOCKARD: It does for the government.

17 MR. ROCCO: Yes, your Honor.

18 THE COURT: Okay. And so the defense submission, if  
19 you can do that by March 26, and then if the government could  
20 make its submission by April 2. Does that work for everybody?

21 MR. LOCKARD: It does, your Honor.

22 THE COURT: Unless you have anything further, I think  
23 that's our schedule for the immediate future and through  
24 sentencing. And hearing no comments, I'll see you again on  
25 April 11. Good day.

I133ATI2

Verdict

1 MR. KAMARAJU: Thank you, your Honor.

2 THE COURT: Thank you.

3 (Adjourned)

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